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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,263	06/02/2000	Donald F. Gordon	60136.0156US1	5643
94140	7590	03/13/2013		
Merchant & Gould - Cox PO Box 2903 Minneapolis, MN 55402				
EXAMINER				
SALTARELLI, DOMINIC D				
ART UNIT		PAPER NUMBER		
2421				
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03/13/2013		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/585,263

**Applicant(s)**

GORDON ET AL.

**Examiner**

DOMINIC D. SALTARELLI

**Art Unit**

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2013.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 15-22 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 15-22 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 3) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed April 20, 2012 have been fully considered but they are not persuasive. Applicant argues Boucher and Miller fail to disclose sending a request from the set top terminal to a session manager at the headend for a program guide page corresponding to an input by the user for a lookahead time interval and retrieving said page for delivery and viewing by said user, citing the fact that Boucher fails to disclose a view action of moving a cursor to a lookahead time interval and Miller fails to disclose sending commands upstream to a headend for program guide page retrieval.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Boucher teaches all of the necessary steps for requesting and retrieving a program guide page, and is only missing performing said steps directly in response to a view action of moving a cursor to a lookahead time interval within the program guide interface. Miller addresses this deficiency by demonstrating that presenting program guide pages in response to view actions of moving a cursor to a lookahead time interval within a program guide interface was a well-known and desired feature of electronic program guides.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boucher et al. (7,536,705, of record) [Boucher] in view of Miller et al. (5,585,866, of record) [Miller].

Regarding claims 15 and 19, Boucher discloses a method (col. 6 line 48 - col. 7 line 13 and col. 34, lines 4-21), comprising:

generating, at a headend of a broadband content distribution network, a plurality of frame sequences of graphics and video (data objects, col. 7, lines 36-57, see also col. 12, lines 63 - col. 13 line 4 and col. 13, lines 37-50) to form a plurality (there are as many generated interfaces as there are requesting users, col. 6 lines 25-34 and col. 17, lines 24-42) of interactive program guide user interfaces (col. 3 line 63 - col. 4 line 3; col. 14, lines 1-3; and col. 14, lines 44-58 "One example of intermixing is a program guide providing a page having text and graphics as well as an inserted window of motion video, e.g., a program preview.");

encoding (col. 8, lines 27-56), by a plurality of real-time MPEG encoders and an audio encoder (col. 41, lines 47-54) at the headend (presentations are organized at the central location server, col. 13, lines 51-55), the plurality of

interactive program guide user interfaces to include an identifier for uniquely identifying each of the plurality of interactive program guide user interfaces such that the encoder produces an MPEG compliant bitstream (PID, col. 13, lines 15-34);

modulating, at a headend, the plurality of encoded interactive program guide user interfaces using quadrature amplitude modulation to produce an interactive program guide stream (col. 42, lines 11-24);

combining, at the headend, the interactive program guide stream and a bit stream for audio and video of a broadcast video program to form one or more transport streams for broadcast to all subscribers in the broadband content distribution network (col. 22, lines 16-47 and col. 41 line 55 - col. 42 line 21);

continuously transmitting the one or more transport streams to a plurality of set top terminals of all subscribers in the broadcast content distribution network via an in-band channel of the broadband content distribution network (col. 42, lines 11-64, see specifically lines 57-60 "Consequently, some data may be sent continuously to all, or a subset of all, concurrent users of a pre-assigned channel");

in response to a selection signal providing an identifier to a first set top terminal of the plurality of set top terminals for identifying one of the plurality of interactive program guide user interfaces, extracting, at a set-top terminal, a selected interactive program guide user interface associated with the identifier for

immediate presentation on a viewer's equipment (col. 39 line 57 - col. 40 line 10 and col. 42, lines 35-52);

interacting with a selected presentation via signaling through a bi-directional out-of-band channel (subscriber equipment uses a modem communicating with OOB server using the "user number" to coordinate upstream and downstream signaling, col. 20 line 55 - col. 21 line 5; col. 29, lines 9-25; and col. 40, lines 51-67);

combining, at the headend, presentation images in response to said interactions and transmitting the transport stream to the set top terminal for extraction, at a set-top terminal, the presentation corresponding to a determined view action (col. 15 line 66 - col. 16 line 4).

Boucher fails to disclose determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface; in response to the determined view action, wherein said interacting consists of sending a request from the set-top terminal to the session manager at the headend via the bi-directional out-of-band channel for an interactive program guide page corresponding to the determined view action; and said combining and transmitting consist of delivering the interactive program guide user interface from the interactive program guide stream having the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment.

In an analogous art, Miller discloses determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface; in response to the determined view action, presenting the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment (col. 10, lines 36-60 and col. 16, lines 51-60 "...pages to the left if the cursor is at the extreme right side of the display and the right direction arrow is depressed."). This is a standard feature found in interaction electronic program guides, providing the benefit of allowing a user to navigate through the entire program schedule (col. 16, lines 59-60).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Boucher to include determining, at the set-top terminal, a view action of moving a cursor to a lookahead time interval within the presented interactive program guide user interface and in response to the determined view action, presenting the interactive program guide page corresponding to the determined view action to present the interactive program guide page corresponding to the determined view action on the viewer's equipment, as taught by Miller, providing the benefit of allowing a user to navigate through the entire program schedule.

Regarding claims 16 and 20, Boucher and Miller disclose the method and system of claims 15 and 19, further comprising:

changing the particular broadcast video display to a new broadcast video display, upon termination of a navigation command (Miller, col. 17, lines 18-23);

wherein changing the particular broadcast video display is accomplished by generating, encoding, and transmitting video packet streams at the headend (Boucher, col. 4, lines 45-61).

Regarding claims 17 and 21, Boucher and Miller disclose the method and system of claims 16 and 20, wherein the navigation command navigates only through favorite channels (Miller, col. 11, lines 15-27).

Regarding claims 18 and 22, Boucher and Miller disclose the method and system of claims 15 and 19, wherein the interactive program guide user interface is overlaid the broadcast video presentation in response to a signal to activate the interactive program guide user interface (Boucher, col. 15, lines 11-17).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Parry can be reached on (571) 272-8328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOMINIC D SALTARELLI/  
Primary Examiner, Art Unit 2421